

REPORT TO: LICENSING COMMITTEE – 12 OCTOBER 2012

REPORT BY: LICENSING MANAGER

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Sex Establishment Licensing – Consideration of responses to public consultation and determination of final policy in respect of sex establishments

Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009.

1.0 PURPOSE OF REPORT

The purpose of this report is for the Licensing Committee to consider the responses received as a result of the public consultation in respect of the draft sex establishment policy and to determine the final policy for adoption by the Licensing Authority.

2.0 RECOMMENDATION

RECOMMENDED:-

a) *That the Licensing Committee give consideration to the responses received following the public consultation on the proposed sex establishment licensing policy; and*

b) *That having regard to the responses to the consultation and other relevant factors, the Licensing Committee consider the following options when determining the final policy for adoption by the Licensing Authority;*

- *Option 1 – The policy as currently drafted be adopted without amendment;***
- *Option 2 – The policy to be amended to include an additional paragraph, numbered 7.10a, as follows:***

Notwithstanding the provisions of paragraph 7.10 (relating to the numerical control on the number of sex establishments in a particular locality), the presumption to refuse shall not apply to:

- *the renewal or variation of an existing sex establishment licence; or***

- *the grant of a new sex establishment licence, whereby an application was made during the transitional period 1 November 2011 until 31 October 2012 to those premises that can demonstrate to the satisfaction of the Licensing Authority that during the 12 months prior to the commencement of the transitional period they have been regularly providing sexual entertainment that previously was only regulated under the Licensing Act 2003.”*
- *Option 3 – The policy to be amended so as to remove existing paragraph 7.10 from the final statement of licensing policy.*

3.0 BACKGROUND INFORMATION

- 3.1 Section 27 of the Policing and Crime Act 2009 (the “2009 Act”) introduced a new category of sex establishment called “sexual entertainment venues” (SEVs) which enables local authorities to regulate lap dancing clubs and similar venues under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the “1982 Act”). Previous definitions were limited to either sex shops or sex cinemas. Portsmouth City Council (“PCC”) adopted the provisions relating to sex shops and sex cinemas in 1982 and the policy of PCC since 2002 is to consider each application on its individual merit so far as it relates to sex shops and sex cinemas.
- 3.2 Council resolved on 22 March 2011 to adopt the new provisions together with further recommendations which included the preparation of a proposed draft policy for consideration and adoption by the Licensing Committee.
- 3.3 On 21 September 2011, the Licensing Committee considered its preferred approach in the formulation of its draft sex establishment policy and decided to investigate the identification of pre-determined localities and the imposition of numerical controls but acknowledged that even with a policy in place, each application must be considered on its individual merit at the time the application is made.
- 3.4 On 24 February 2012, the Licensing Committee approved the publication of its draft sex establishment licensing policy as the consultation document for the purposes of the Local Government (Miscellaneous Provisions) Act 1982 and in addition, approved specific questions forming part of the consultation process.
- 3.5 A copy of the current draft policy is attached as Appendix A.

4.0 CONSULTATION PROCESS AND TIMESCALES

4.1 Full consultation on the draft statement of licensing policy was undertaken with:

- The Chief Officer of Police for Hampshire Constabulary;
- Persons/bodies representative of existing operators of sex establishments in the licensing authority area;
- Persons/bodies representative of those likely to be affected by or have an interest in the Policy which may include but is not limited to:
 - Regulatory bodies such as the Fire and Planning Authorities;
 - Community Safety and Children's Social Care and Safeguarding;
 - Interested parties such as local residents associations, trade associations and interest groups.

4.2 The six week public consultation period commenced on 1 March 2012 until 12 April 2012.

4.3 As previously reported, the following steps were also taken:-

- Copies of the draft Statement of Licensing Policy together with information as regards making representations were made available on the Council's website, facebook and twitter pages;
- Copies of the document were sent to all libraries and were also available at the Licensing Section and the City Helpdesk;
- A press release was prepared for the media;
- An item on the proposed draft policy was published in the Members Information sheet and was distributed to all Members; and
- A copy of the draft policy was made available in each of the Group Rooms.

5.0 CONSULTATION PROCESS – QUESTIONS

5.1 As agreed by the Licensing Committee at the meeting on 24 February 2012, the following questions formed part of the consultation process. (References to sections in this paragraph relate to those appropriate sections of the proposed draft policy),

Question 1.

Do you agree with the Council's proposed policy considerations in respect of situations where the grant of a licence would be inappropriate having regard to the use of the premises in the vicinity as set out in paragraphs 7.13 and 7.14 of the draft policy?

Question 2.

Do you agree with the Council's proposed preliminary conclusion that there is no place within the City of Portsmouth of which it could be said that it was situated in a locality in which it would be appropriate to licence a sex establishment as set out in paragraph 7.10 of the draft policy?

Question 3.

Do you think that existing sex establishment premises should be allowed to continue to trade so long as they comply with the law and other policy considerations?

Question 4.

Do you have any other comments to make regarding the draft policy?

6.0 ANALYSIS OF RESPONSES RECEIVED

- 6.1 A total of 3,425 replies were received from members of the public in response to the public consultation.

A comprehensive breakdown of those responses is attached as Appendix B to this report but in summary the main points are as follows:

- 404 responses were received via the Licensing email address;
- 3021 responses were received by way of a formal petition letter;
- Of the total 3,425 responses:
 - 1556 respondents resided within Portsmouth (post code areas PO1 – PO6);
 - 1672 respondents resided outside of the City boundaries;
 - 197 respondents did not provide details of their address.
- Of the total 3,425 responses:
 - 116 respondents were in favour of a nil policy for sex establishments;

- 3309 respondents were against a nil policy.

7.0 EQUALITY IMPACT ASSESSMENT

A preliminary equality impact assessment has previously been undertaken in respect of the proposed policy which has identified that a full impact assessment is not required at this time.

8.0 APPENDICES

Appendix A – Draft Sex Establishment Licence Policy;

Appendix B – Analysis and Findings of Public Consultation.

A handwritten signature in black ink, appearing to read 'A. Humphreys', with a stylized, cursive script.

Licensing Manager